

LEGISLATIVE COUNSEL

91ST CONGRESS }  
1st Session }

HOUSE OF REPRESENTATIVES

FILE COPY

AMENDING THE WAR CLAIMS ACT OF 1948 TO PROVIDE FOR PAYMENT  
OF CLAIMS OF PRISONERS OF WAR AND CIVILIAN AMERICAN  
CITIZENS HELD CAPTIVE BY THE FORCES OF NORTH VIETNAM,  
AND OF PERSONS SERVING ON BOARD THE U.S.S. *PUEBLO* HELD  
CAPTIVE BY THE FORCES OF NORTH KOREA

MAY 15, 1969.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign  
Commerce, submitted the following

## REPORT

[To accompany H.R. 4204]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 4204) to amend section 6 of the War Claims Act of 1948 to include prisoners of war captured during the Vietnam conflict, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

The committee struck out all after the enacting clause and inserted a substitute text which appears in the reported bill in italic type.

The other committee amendment conforms the title of the bill to the substitute text.

### PRINCIPAL PURPOSE OF THE BILL

The reported bill would authorize payments under the War Claims Act of 1948 to members of the Armed Forces captured and held prisoner by the forces of North Vietnam, and to persons captured by North Korea while assigned to duty on board the U.S.S. *Pueblo*, for the period of their captivity at the same rates and under the same conditions as applied with respect to the members of Armed Forces held prisoner during the Korean conflict. In general, benefits are paid at the rate of \$2.50 for each day of captivity. In addition, the bill provides for payments to civilian American citizens held by the forces of North Vietnam at the rate of \$60 per month, in the same manner as was provided for civilians interned by the forces of North Korea.

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# HEARINGS ; AGENCY REPORTS ; COST

Hearings were held on this legislation on March 5, 1969. Testimony in support of the bill was received from the Foreign Claims Settlement Commission and the American Legion. No testimony adverse to the bill was received.

In their reports on the bill, the Foreign Claims Settlement Commission recommended enactment of H.R. 4204 with amendments, and the report of the Department of Defense recommended similar amendments, but also suggested that consideration of the bill be deferred. The report of the Department of Justice defers to the views of the Commission.

Subsequently, the Bureau of the Budget submitted a report stating that, subject to the committee's consideration of the points raised in the reports of the Commission and the Department of Defense, the Bureau of the Budget would not object to enactment of the bill.

The committee has considered the recommendations of the Commission, and has amended the bill appropriately; and has also considered the recommendation of the Department of Defense that enactment be deferred. The committee feels it is appropriate for this legislation to be enacted at this time.

The United States has received considerable information through escaped prisoners and through prisoners released by the North Vietnamese forces, concerning the treatment of persons held prisoner by the North Vietnamese. Although North Vietnam has subscribed to the Geneva Convention of 1949, the consistent showing by escaped and released former prisoners has been one of inhumane treatment and treatment of prisoners in flagrant violation of the Geneva Convention. Under the circumstances, the committee sees no justification for delay in payment of the token sums prescribed in this legislation to those prisoners who have been released. With respect to members of the crew of the *Pueblo*, it is also clear that the forces of North Korea followed a similar pattern of mistreatment of those members of the Armed Forces.

It is impossible to determine the exact cost of the legislation at this time; however, based upon experience with the similar program established for members of the Armed Forces held prisoner in Korea, it appears likely that the cost of the bill will not exceed \$500,000. The costs of the bill are discussed in more detail hereafter in this report.

## BACKGROUND

At the conclusion of World War II, the Congress provided through the War Claims Act of 1948 for payment out of the proceeds of vested German and Japanese assets in the United States of a number of categories of war claims. A major category of claims provided for under this legislation was claims of members of the Armed Forces in the amount of \$1 per day for each day on which the member was furnished an inadequate quantity or quality of food during the period of his imprisonment. Subsequent amendments in 1952 provided for payment of an additional \$1.50 per day to members for each day with respect to which they established that they were required to engage in forced labor or received inhumane treatment, defined generally as treatment in violation of specified articles of the Geneva Convention of 1929

relating to treatment of prisoners of war. Payments under these two programs to 179,578 World War II prisoners of war totaled \$123,397,604.

In 1954 the Congress amended the War Claims Act of 1948 to provide for the establishment of a similar program providing compensation to members of the Armed Forces held as prisoners of war by the forces of North Korea. The amounts and conditions for payment were the same as had been provided earlier for persons held prisoner during World War II, except that payments were to be made out of appropriated funds, since there were virtually no assets of North Korea in the United States available for this purpose. In addition, the 1954 amendments provided that no payments would be made to any individual who "voluntarily, knowingly, and without duress, gave aid to, collaborated with, or in any manner served" the forces of North Korea during his imprisonment. Payments were made under this program to 9,460 prisoners, or their survivors, totaling \$8,886,473.

With respect to civilian internees, the World War II claims legislation provided for the continuation of the pay and allowances of contractors' employees during the period of their captivity, authorized medical care for these employees for physical disabilities incurred as a result of their captivity and provided for payment of detention benefits in addition at the rate of \$60 per month for adults and \$25 a month for children for the period of their captivity. 11,652 internees were paid a total of \$18,092,461 in detention benefits under this program.

Subsequent amendment to the Missing Persons Act and the War Hazards Act authorized continuation of pay, and provided other benefits, for employees of the United States, and for employees of contractors with the United States captured after World War II in zones of military hazard. Therefore, the 1954 amendments to the War Claims Act provided only for payment of detention benefits to civilians who were captured in Korea of whom seven received payments under the 1954 act totaling \$16,774.

#### PROVISIONS OF THE BILL

The reported bill would provide for payment to members of the Armed Forces held prisoner by the forces of North Vietnam at the rate of \$1 per day for each day on which the member received an inadequate quantity or quality of food during his captivity and \$1.50 per day for each day on which he was required to perform forced labor, or was subjected to inhumane treatment (defined generally as treatment in violation of the Geneva Convention of August 12, 1949, to which North Vietnam is a signatory). The bill also provides for payment to all civilian American citizens who are held captive by the North Vietnam forces at the rate of \$60 per month, which is in addition to any payments they may receive under the Missing Persons, Defense Base, or War Hazards Acts.

The committee recognizes that the amounts provided by the bill for members of the Armed Forces and for civilian American citizens held captive are inadequate compensation for the hardships they have suffered; however, since in general no monetary payment can actually be adequate compensation, the committee feels that the payments provided in the bill serve as a symbolic gesture on the part of the United States

expressing recognition of the hardships suffered by the beneficiaries in keeping with the procedure established under the World War II and Korean conflict claims program.

In addition, the bill provides for payment, at the same rates and under the same conditions as applied under the Korean conflict claims program, to all persons captured while serving on board the U.S.S. *Pueblo*. The committee feels that the circumstances under which these individuals were captured and held are essentially the same as apply to members of the Armed Forces captured and held by the forces of North Vietnam, and by the forces of North Korea during the Korean conflict, so as to justify treatment of these persons in the same fashion as applies to persons captured while serving in other zones of hostilities.

#### PROCEDURES OF THE COMMISSION

The 1954 Korean conflict claims legislation dealt with the deeply troublesome problem of collaboration by some members of the Armed Forces with their captors during the periods of their captivity in Korea. As a result, the 1954 legislation provided that no payments would be made to members of the Armed Forces, or civilians, who "voluntarily, knowingly, and without duress, gave aid to, collaborated with, or in any manner served" the interests of North Korea during their captivity. The reported bill applies the same test with respect to members of the Armed Forces and civilians held prisoner by the forces of North Vietnam and to persons serving on board the U.S.S. *Pueblo*.

The test obviously excludes persons who voluntarily defect to the enemy, but does not exclude persons who surrender when faced with overwhelming odds. In addition, the legislation recognizes that through torture, whether physical or mental, and through deprivation of food, the will to resist of many, if not most, men can be broken. Therefore, the legislation provides that, in order for benefits to be denied, the aid, collaboration, or service of the interests of the captors of the individual must have been performed by the affected person voluntarily, knowingly, and without duress.

A procedural problem arose during the consideration of the Korean claims program which made the work of the Foreign Claims Settlement Commission particularly difficult. The Commission was required to grant a hearing to each person who requested such a hearing upon denial of benefits. The Commission was furnished a substantial amount of information by the Department of Defense bearing upon the question of collaboration of individual members of the Armed Forces while held prisoner. Although this information in the hands of the Department of Defense was well known to the forces of North Korea, and presumably the remainder of the Communist world and, if accurate, was also well known to the individual claimants, the information was generally classified as "Top Secret." The Commission was therefore placed in the dilemma of having to deny benefits to individuals on the basis of top-secret information which could not then be disclosed to the individual about whom the information related, except in general summary form which of necessity was so vague as to make it virtually impossible for the person charged with collaboration to rebut precise charges made against him.

During the hearings, this procedural problem was discussed with the Chairman of the Foreign Claims Settlement Commission. The committee expects that in the adjudication of individual cases arising under this legislation where benefits are proposed to be denied to an individual on the basis of information that he gave aid to, collaborated with, or served the interests of North Vietnam or North Korea, as the case may be, the Commission's procedures will provide that the individual will be furnished a precise statement of facts indicating such activity. If the information is classified, and therefore cannot be disclosed to the claimant or his counsel, the committee expects that the Commission will seek to obtain declassification of this information. Where the information is already known by the North Vietnamese or North Koreans, as the case may be, and is also presumably known by the claimant, it would seem rather useless to the committee to retain a security classification on such information. If the Commission is unable to obtain declassification of such information, the committee expects that this information will be disregarded by the Commission in its adjudication of the individual case, and the Commission's decision will be based entirely on the record made at the hearing.

#### SECTION-BY-SECTION ANALYSIS

The first section of the reported bill would amend section 6 of the War Claims Act of 1948 by adding a new subsection (f) defining the terms "Vietnam conflict" and "prisoner of war." Paragraphs (2) and (3) of the new subsection (f) would prescribe the amounts of payment to individuals, and the conditions for payment of such benefits.

The subsection also provides for payments out of appropriations and requires that claims must be filed within 3 years from whichever occurs last, the date of enactment of the bill, the date of return of the prisoner to the jurisdiction of the United States, or in the event of death claims, the date of death as determined by the Department of Defense.

Section 2 of the bill provides for payment of war claims benefits to persons serving on board the U.S.S. *Pueblo* who were captured and held by the forces of North Korea during 1968. This covers not only the assigned members of the crew, but marines and civilians assigned to duty on board that vessel. Claims under this section must be filed within 1 year after date of enactment of the bill.

Section 3 of the bill provides for payment to civilians captured in Southeast Asia during the Vietnam conflict, who are held prisoner by the forces of North Vietnam. Benefits are to be paid at the rate of \$60 per month, and are to be paid out of appropriated funds. Claims must be filed within 3 years from the date of enactment, the date of return to the jurisdiction of the United States, or the date determined to be the date of death, whichever last occurs.

#### DISCUSSION CONCERNING THE COST OF THE PRISONER-OF-WAR CLAIMS PROGRAM AS PROPOSED UNDER THE BILL

The total number of civilian internees and prisoners of war which will be covered under H.R. 4204, of course, will not be known until the end of the Vietnam conflict. Accordingly, the exact cost of the program cannot be estimated at this time.

The average number of prisoner-of-war days per prisoner during the Korean conflict was 556 days (approximately 1 year, 6 months). Assuming 333 out of the 1,275 American military personnel who are classed as prisoners or missing were actually held as prisoners of war for the same number of days (556), the total number of prisoner-of-war days would be 185,148. Based on the foregoing figures, the estimated amount required to pay awards would be \$462,870.

With respect to the *Pueblo*, 81 members of the Armed Forces (of whom one died while in captivity) and two civilians were held prisoner for 11 months. The total cost of claims arising out of this incident should approximate \$68,675.

The Department of Defense listed a total of 8,818 members of the Armed Forces of the United States as having been originally reported as "missing in action" during the Korean conflict. Of this total, a determination of death was made in the case of approximately 7,000 individuals by the Department of Defense under the Missing Persons Act. Approximately 50 percent of the 7,000 presumptive death cases, or 3,500 military personnel, were determined to have died while in the hands of the opposing force. It was ascertained that virtually all deceased prisoners would have at least one survivor eligible to assert a claim authorized in the Korean conflict claims program.

In addition, the Department of Defense listed 4,953 members of the Armed Forces as having been captured or interned during the Korean conflict. Accordingly, the potential claim load was estimated at 8,500 eligible claimants. The average number of prisoner-of-war days per prisoner was estimated at 556, making a total of 4,723,000 compensable days at \$2.50 per day. The cost of the claims was estimated, therefore, at \$11,817,500.

Upon completion of the program, however, 9,460 awards had actually been made to prisoners or their survivors in the total amount of \$8,886,473, an amount approximately \$3 million less than had been previously estimated. The total amount included seven civilian internee claims amounting to \$16,774. The increased number of awards was due to the larger number of claims involving more than one survivor for deceased prisoners which had not been previously estimated.

Whether claims of prisoners of the Vietnam conflict will follow a similar pattern cannot be estimated at this time. Undoubtedly more detailed information concerning these prisoners will become available at some future date.

#### AGENCY REPORTS

FOREIGN CLAIMS SETTLEMENT COMMISSION,  
OF THE UNITED STATES,  
*Washington, D.C., March 5, 1969.*

HON. HARLEY O. STAGGERS,  
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Further reference is made to your request of February 12, 1969, for a report by the Foreign Claims Settlement Commission on the bill H.R. 4204, 91st Congress, to amend section 6 of the War Claims Act of 1948 to include prisoners of war captured during the Vietnam conflict.

In effect, the bill would provide for the payment of compensation at the rate of \$2.50 per day for every day a member of the Armed Forces of the United States was held as a prisoner of war by a hostile force from August 5, 1964, to some future date to be designated by the President or by the Congress.

In order to carry out the purpose of the bill certain amendments are proposed to subsection (e) of section 6 of title I of the War Claims Act of 1948, as amended. Subsection (e) of section 6 was added to the act by Public Law 83-615, approved August 21, 1954. Subsection (e) of section 6 authorized the Foreign Claims Settlement Commission to receive and determine the amount of any claim filed by any prisoner of war for compensation for the failure of the hostile force by which he was held as a prisoner of war during the Korean conflict, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war as prescribed under the terms of the Geneva Convention of July 27, 1929. Compensation is payable at the rate of \$1 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

Subsection (e) also provided an additional \$1.50 per day for each day on which he was held as a prisoner of war based on the failure of the hostile force to meet the conditions and requirements prescribed under the Geneva Convention of 1929 relating to the labor and treatment of such prisoners.

In case of death or determination of death of the person entitled to compensation, such compensation would be payable to certain specific survivors, including the widow, children, and parents of the deceased prisoner of war in that order of priority.

A "prisoner of war" is defined under the present provisions of subsection (e), paragraph (1), as "any regularly appointed, enrolled, enlisted or inducted member of the Armed Forces of the United States who was held as a prisoner of war for any period of time subsequent to June 25, 1950, by any hostile force with which the Armed Forces of the United States were actually engaged in armed conflict subsequent to such date and prior to the date of enactment of this subsection, except any such member who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force."

Payment of claims under subsection (e) of section 6 of the War Claims Act was authorized to be made out of appropriated funds.

The bill, H.R. 4204, proposes to amend the definition of a "prisoner of war" under subsection (e) (1) by making a technical change in the dates of coverage under the completed Korean prisoner of war program and those prisoners to be covered during the Vietnam conflict. Technical amendments are also proposed under subsection (e) (5) of the act to update the claims filing and completion provisions for the Vietnam prisoner-of-war claimants. In this connection, the Commission is required to complete its determinations with respect to each claim filed no later than 1 year after the date on which such claim was filed.

The Commission, after a study of the material contained in the State Department's so-called white paper on Vietnam prisoners of war ("Vietnam Information Notes," Office of Media Service, Bureau of

Public Affairs, Department of State, No. 9, August 1967), the research material prepared by the Foreign Affairs Division, Legislative Reference Service, Library of Congress, as published in the daily issue of the Congressional Record on August 9, 1967 (vol. 113, No. 125, pp. S 11181-11187) and subsequent material, is of the opinion that there has been a gross mistreatment of American servicemen who were captured and held as prisoners of war in Vietnam and that such servicemen be provided some measure of relief over and above their regular pay and allowances. Accordingly, the Commission would recommend that some measure of relief be provided to these individuals.

The Commission understands that there are estimated to be approximately 1,275 American servicemen who are either classed as prisoners of war or missing in North and South Vietnam. The total number of prisoners is not known because, generally, there has been no identification of such prisoners despite the provisions of the Geneva Conventions of 1929 and 1949 which require the detaining power to make such identity. It is known, however, that in addition to at least several eligible survivors, a few prisoners have been released or escaped their captors and they, therefore, would be in a position to file claims for benefits within a short time after the enactment of H.R. 4204.

The attention of the committee is also invited to the fact that a number of civilian American citizens have been stationed in Vietnam during the past 7 or 8 years. Although the Commission has no specific information concerning the approximate number of these civilians or their present status, it is known, however, that some of these civilians have been, or are being, held by hostile forces in Vietnam as well as in other areas in Southeast Asia.

Claims of civilian American citizens who were captured by the Japanese on U.S. territories and possessions and interned during World War II were provided for under section 5 (a) through (e) of title I of the War Claims Act of 1948, as amended. Section 5(g) of the act also provided compensation to civilian American citizens who were captured in Korea on or after June 26, 1950, by a hostile force. Compensation for both the World War II and Korean conflict civilian internees was payable at the rate of \$60 for each calendar month during which a civilian American citizen was at least 18 years of age and at the rate of \$25 per month for each calendar month during which such citizen was under 18 years of age.

Precedents for these claims have long been established by the Congress. Accordingly, the Commission recommends that consideration be given to the inclusion of the claims of civilian American citizens under the bill.

The Commission also recommends to the committee that reference be made to the Geneva Convention of August 12, 1949, instead of the Geneva Convention of July 27, 1929. In this connection, the Commission understands that the Government in North Vietnam is a party to the Geneva Convention of August 12, 1949, having acceded to it on June 28, 1957. Consequently, the bases for payment would be violations of the convention of 1949 instead of the failure of a hostile force to meet the conditions and requirements prescribed in the 1929 convention as is presently provided under subsection (e) of section 6 of the act. The recommendation, therefore, would be to substitute language similar to that contained under subsections (d) (2) and (d) (3) of sec-



tion 6 for subsection (e) of section 6 as well as the substitution of the 1949 convention for the 1929 convention. This would also require certain changes in the act to include the appropriate articles of the later convention.

The committee may also wish to consider the fact that the date of February 28, 1961, has been used in other legislation as the beginning date of the Vietnam conflict and marks the appropriate date when American military advisers began to accompany their Vietnamese counterparts on military operations. Accordingly, it is recommended that the date of "February 28, 1961" be substituted for the date of "August 5, 1964" as it appears on line 1, page 2 of the bill.

The committee's attention is also invited to the bill, H.R. 6295, which was introduced on February 5, 1969, by Representative Tunney. This bill proposed a payment of \$16 for each day a member of a uniformed service is in a "missing status." This would include members who were captured, beleaguered, or besieged by a hostile force, who were in such "missing status" before and after August 23, 1964. The bill which is presently pending before the Committee on Armed Services, would amend title 37 of the United States Code (Pay and Allowances of the Uniformed Services) to provide such compensation. Whether this bill would duplicate the purpose of H.R. 4204 the Commission cannot determine at this time.

While the Commission is in full agreement with the intent and purpose of H.R. 4204 and would recommend its enactment, it nevertheless favors a broader coverage of these claims as reflected in its recommendations outlined above.

Whether the committee may wish to consider the inclusion of these recommendations in the bill is, of course, a matter within the prerogative of the committee.

The committee is informed that time has not permitted securing advice from the Bureau of the Budget as to the relationship of the pending legislation or the report to the program of the President.

Sincerely yours,

LEONARD V.B. SUTTON,  
*Chairman.*

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,  
*Washington, D.C., March 5, 1969.*

HON. HARLEY O. STAGGERS,  
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense on H.R. 4204, 91st Congress, a bill to amend section 6 of the War Claims Act of 1948 to include prisoners of war captured during the Vietnam conflict.

The bill, if enacted, would grant any member of the Armed Forces of the United States who was held a prisoner of war for any period of time between August 5, 1964, and the official ending of the Vietnam conflict, the same benefits granted to authorized prisoners of war captured during World War II and the Korean conflict. Benefits under this bill would consist of \$1 per day of captivity for inadequate food and \$1.50 per day of captivity for forced labor or inhumane treatment

contrary to the Geneva Convention. The prisoner must have been captured by a hostile force with which the United States was actually engaged in armed conflict.

The date of August 5, 1964, and the provision that the prisoner of war must have been captured "by a hostile force with which the Armed Forces of the United States were actually engaged in armed conflict" would exclude a number of men now prisoners of war and some of those who have returned from captivity who were captured prior to August 5, 1964. In the view of the Department of Defense, this would be unfair. It is understood that the Foreign Claims Settlement Commission is recommending the insertion of the date, February 28, 1961. The Department of Defense concurs in this recommendation.

The benefits of \$1 and \$1.50 per day (maximum total \$2.50 per day) under this bill would be the same as those authorized for World War II and the Korean conflict. These rates are relatively low by today's standards.

Payments such as these to prisoners of war of World War II and the Korean conflict were not authorized by law until after the cessation of hostilities. This bill, if enacted now, would alter this precedent in that it would provide for payment before the hostilities in Vietnam are terminated. It is noted further that the bill does not cover civilian internees as has been the case in the past. It is believed that the procedure noted above; that is, enactment of such legislation after cessation of hostilities in Southeast Asia would be more appropriate. Accordingly the Department of Defense recommends that enactment of the proposed legislation be deferred.

The fiscal effects of this legislation cannot be calculated by the Department of Defense at this time.

The Bureau of the Budget advises that time has not permitted determination of the relationship of the proposal to the administration's program.

Sincerely,

L. NIEDERLEHNER,  
*Acting General Counsel.*

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
*Washington, D.C., March 12, 1969.*

HON. HARLEY O. STAGGERS,  
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Rayburn House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your February 12, 1969, letter requesting a report on H.R. 4204, a bill to amend section 6 of the War Claims Act of 1948 to include prisoners of war captured during the Vietnam conflict.

In reporting to your committee, the Foreign Claims Settlement Commission stated that while in full agreement with the bill's intent and purpose, it favors broadening its coverage to include American civilians captured in Vietnam, and recommends that the effective date of the bill's coverage be February 28, 1961, rather than August 5, 1964, as in the introduced bill. The Department of Defense, in its report to your committee, held the same view as FCSC on a desirable effective date for the bill's coverage, questioned the appropriateness of the \$2.50

per day benefits rate, and noted that the bill does not cover civilian internees as in the past. Defense further stated that such payments in the past have not been authorized by law until after the cessation of hostilities, that such a procedure would be more appropriate with respect to the Vietnam conflict than enactment at this time, and the Department therefore recommended that the bill's enactment be deferred.

Subject to the committee's consideration of the points raised in the Foreign Claims Settlement Commission and Department of Defense reports, the Bureau of the Budget would not object to the enactment of H.R. 4204.

Sincerely yours,

WILFRED H. ROMMEL,  
*Assistant Director for Legislative Reference.*

OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
*Washington, D.C., March 17, 1969.*

HON. HARLEY O. STAGGERS,  
*Chairman, Committee on Interstate and Foreign Commerce,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 4204, a bill to amend section 6 of the War Claims Act of 1948 to include prisoners of war captured during the Vietnam conflict.

Section 2005 of the War Claims Act of 1948 authorizes the Foreign Claims Settlement Commission to receive and adjudicate the claims of prisoners of war for compensation at the rate of \$1 a day for the violation by enemy governments of their obligation to furnish such prisoners of war with the quantity or quality of food to which they are entitled under the terms of the Geneva Convention of July 27, 1929. By definition, the term "prisoner of war" is limited to members of the military and naval forces of the United States who were held as prisoners of war by enemy governments during World War II and the Korean war. The proposed bill would extend the benefits of section 2005 to members of the Armed Forces of the United States who have been held as prisoners of war at any time during the Vietnam conflict.

Whether this legislation should be enacted involves questions as to which the Department of Justice defers to the Foreign Claims Settlement Commission.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RICHARD G. KLEINDIENST,  
*Deputy Attorney General.*

**Approved For Release 2002/01/02 : CIA-RDP71B00364R000500090010-3**

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## APPENDIXES

### APPENDIX A

#### GENEVA CONVENTION OF AUGUST 12, 1949

For the information of the Members of the House, some of the relevant provisions of the Geneva Convention of August 12, 1949, referred to in this legislation are set forth below :

#### GENEVA CONVENTION OF AUGUST 12, 1949

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Convention concluded at Geneva on July 27, 1929, relative to the Treatment of Prisoners of War, have agreed as follows:

#### PART I

#### GENERAL PROVISIONS

##### ARTICLE 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

##### ARTICLE 2

In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

##### ARTICLE 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

#### ARTICLE 4

A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

(1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfill the following conditions:

(a) that of being commanded by a person responsible for his subordinates;

(b) that of having a fixed distinctive sign recognizable at a distance;

(c) that of carrying arms openly;

(d) that of conducting their operations in accordance with the laws and customs of war.

(3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.

(4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units

or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.

\* \* \* \* \*

## PART II

### GENERAL PROTECTION OF PRISONERS OF WAR

#### ARTICLE 12

Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.

Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. When prisoners of war are transferred under such circumstances, responsibility for the application of the Convention rests on the Power accepting them while they are in its custody.

Nevertheless, if that Power fails to carry out the provisions of the Convention in any important respect, the Power by whom the prisoners of war were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the prisoners of war. Such requests must be complied with.

#### ARTICLE 13

Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

#### ARTICLE 14

Prisoners of war are entitled in all circumstances to respect for their persons and their honour.

Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men.

Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

ARTICLE 15

The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

ARTICLE 16

Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria.

PART III

CAPTIVITY

SECTION I—BEGINNING OF CAPTIVITY

ARTICLE 17

Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information.

If he wilfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.

No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a language which they understand.



ARTICLE 18

All effects and articles of personal use, except arms, horses, military equipment and military documents, shall remain in the possession of prisoners of war, likewise their metal helmets and gas masks and like articles issued for personal protection. Effects and articles used for their clothing or feeding shall likewise remain in their possession, even if such effects and articles belong to their regulation military equipment.

At no time should prisoners of war be without identity documents. The Detaining Power shall supply such documents to prisoners of war who possess none.

Badges of rank and nationality, decorations and articles having above all a personal or sentimental value may not be taken from prisoners of war.

Sums of money carried by prisoners of war may not be taken away from them except by order of an officer, and after the amount and particulars of the owner have been recorded in a special register and an itemized receipt has been given, legibly inscribed with the name, rank and unit of the person issuing the said receipt. Sums in the currency of the Detaining Power, or which are changed into such currency at the prisoner's request, shall be placed to the credit of the prisoner's account as provided in Article 64.

The Detaining Power may withdraw articles of value from prisoners of war only for reasons of security; when such articles are withdrawn, the procedure laid down for sums of money impounded shall apply.

Such objects, likewise sums taken away in any currency other than that of the Detaining Power and the conversion of which has not been asked for by the owners, shall be kept in the custody of the Detaining Power and shall be returned in their initial shape to prisoners of war at the end of their captivity.

ARTICLE 19

Prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger.

Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone.

Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

ARTICLE 20

The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the Detaining Power in their changes of station.

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the neces-

sary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as soon as possible a list of the prisoners of war who are evacuated.

If prisoners of war must, during evacuation, pass through transit camps, their stay in such camps shall be as brief as possible.

## SECTION II—INTERNMENT OF PRISONERS OF WAR

### *Chapter I—General Observations*

#### ARTICLE 21

The Detaining Power may subject prisoners of war to internment. It may impose on them the obligation of not leaving, beyond certain limits, the camp where they are interned, or if the said camp is fenced in, of not going outside its perimeter. Subject to the provisions of the present Convention relative to penal and disciplinary sanctions, prisoners of war may not be held in close confinement except where necessary to safeguard their health and then only during the continuation of the circumstances which make such confinement necessary.

Prisoners of war may be partially or wholly released on parole or promise, in so far as is allowed by the laws of the Power on which they depend. Such measures shall be taken particularly in cases where this may contribute to the improvement of their state of health. No prisoner of war shall be compelled to accept liberty on parole or promise.

Upon the outbreak of hostilities, each Party to the conflict shall notify the adverse Party of the laws and regulations allowing or forbidding its own nationals to accept liberty on parole or promise. Prisoners of war who are paroled or who have given their promise in conformity with the laws and regulations so notified, are bound on their personal honour scrupulously to fulfil, both towards the Power on which they depend and towards the Power which has captured them, the engagements of their paroles or promises. In such cases, the Power on which they depend is bound neither to require nor to accept from them any service incompatible with the parole or promise given.

#### ARTICLE 22

Prisoners of war may be interned only in premises located on land and affording every guarantee of hygiene and healthfulness. Except in particular cases which are justified by the interest of the prisoners themselves, they shall not be interned in penitentiaries.

Prisoners of war interned in unhealthy areas, or where the climate is injurious for them, shall be removed as soon as possible to a more favourable climate.

The Detaining Power shall assemble prisoners of war in camps or camp compounds according to their nationality, language and customs, provided that such prisoners shall not be separated from prisoners of war belonging to the armed forces with which they were serving at the time of their capture, except with their consent.

ARTICLE 23

No prisoner of war may at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations.

Prisoners of war shall have shelters against air bombardment and other hazards of war, to the same extent as the local civilian population. With the exception of those engaged in the protection of their quarters against the aforesaid hazards, they may enter such shelters as soon as possible after the giving of the alarm. Any other protective measure taken in favour of the population shall also apply to them.

Detaining Powers shall give the Powers concerned, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of prisoner of war camps.

Whenever military considerations permit, prisoner of war camps shall be indicated in the day-time by the letters PW or PG, placed so as to be clearly visible from the Air. The Powers concerned may, however, agree upon any other system of marking. Only prisoner of war camps shall be marked as such.

ARTICLE 24

Transit or screening camps of a permanent kind shall be fitted out under conditions similar to those described in the present Section, and the prisoners therein shall have the same treatment as in other camps.

*Chapter II—Quarters, Food and Clothing of Prisoners of War*

ARTICLE 25

Prisoners of war shall be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area. The said conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health.

The foregoing provisions shall apply in particular to the dormitories of prisoners of war as regards both total surface and minimum cubic space, and the general installations, bedding and blankets.

The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. All precautions must be taken against the danger of fire.

In any camps in which women prisoners of war, as well as men, are accommodated, separate dormitories shall be provided for them.

ARTICLE 26

The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the prisoners.

The Detaining Power shall supply prisoners of war who work with such additional rations as are necessary for the labour on which they are employed.

Sufficient drinking water shall be supplied to prisoners of war. The use of tobacco shall be permitted.

Prisoners of war shall, as far as possible, be associated with the preparation of their meals; they may be employed for that purpose in the kitchens. Furthermore, they shall be given the means of preparing, themselves, the additional food in their possession.

Adequate premises shall be provided for messing.

Collective disciplinary measures affecting food are prohibited.

#### ARTICLE 27

Clothing, underwear and footwear shall be supplied to prisoners of war in sufficient quantities by the Detaining Power, which shall make allowance for the climate of the region where the prisoners are detained. Uniforms of enemy armed forces captured by the Detaining Power should, if suitable for the climate, be made available to clothe prisoners of war.

The regular replacement and repair of the above articles shall be assured by the Detaining Power. In addition, prisoners of war who work shall receive appropriate clothing, wherever the nature of the work demands.

### *Chapter III—Hygiene and Medical Attention*

#### ARTICLE 29

The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics.

Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them.

Also, apart from the baths and showers with which the camps shall be furnished, prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose.

#### ARTICLE 30

Every camp shall have an adequate infirmary where prisoners of war may have the attention they require, as well as appropriate diet. Isolation wards, shall, if necessary, be set aside for cases of contagious or mental disease.

Prisoners of war suffering from serious disease, or whose condition necessitates special treatment, a surgical operation or hospital care, must be admitted to any military or civilian medical unit where such treatment can be given, even if their repatriation is contemplated in the near future. Special facilities shall be afforded for the care to be given to the disabled, in particular to the blind, and for their rehabilitation, pending repatriation.

Prisoners of war shall have the attention, preferably, of medical personnel of the Power on which they depend and, if possible, of their nationality.

Prisoners of war may not be prevented from presenting themselves to the medical authorities for examination. The detaining authorities shall, upon request, issue to every prisoner who has undergone treatment, an official certificate indicating the nature of his illness or injury, and the duration and kind of treatment received. A duplicate of this certificate shall be forwarded to the Central Prisoners of War Agency.

The costs of treatment, including those of any apparatus necessary for the maintenance of prisoners of war in good health, particularly dentures and other artificial appliances, and spectacles, shall be borne by the Detaining Power.

ARTICLE 31

Medical inspections of prisoners of war shall be held at least once a month. They shall include the checking and the recording of the weight of each prisoner of war.

\* \* \* \* \*

ARTICLE 40

The wearing of badges of rank and nationality, as well as of decorations, shall be permitted.

ARTICLE 41

In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language, in places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted.

Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand.

ARTICLE 42

The use of weapons against prisoners of war, especially against those who are escaping or attempting to escape, shall constitute an extreme measure, which shall always be preceded by warnings appropriate to the circumstances.

*Chapter VII—Rank of Prisoners of War*

ARTICLE 43

Upon the outbreak of hostilities, the Parties to the conflict shall communicate to one another the titles and ranks of all the persons mentioned in Article 4 of the present Convention, in order to ensure equality of treatment between prisoners of equivalent rank. Titles and ranks which are subsequently created shall form the subject of similar communications.

The Detaining Power shall recognize promotions in rank which have been accorded to prisoners of war and which have been duly notified by the Power on which these prisoners depend.

ARTICLE 44

Officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

In order to ensure service in officers' camps, other ranks of the same armed forces who, as far as possible, speak the same language, shall be assigned in sufficient numbers, account being taken of the rank of officers and prisoners of equivalent status. Such orderlies shall not be required to perform any other work.

Supervision of the mess by the officers themselves shall be facilitated in every way.

ARTICLE 45

Prisoners of war other than officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

Supervision of the mess by the prisoners themselves shall be facilitated in every way.

*Chapter VIII—Transfer of Prisoners of War After Their Arrival in Camp*

ARTICLE 46

The Detaining Power, when deciding upon the transfer of prisoners of war, shall take into account the interests of the prisoners themselves, more especially so as not to increase the difficulty of their repatriation.

The transfer of prisoners of war shall always be effected humanely and in conditions not less favourable than those under which the forces of the Detaining Power are transferred. Account shall always be taken of the climatic conditions to which the prisoners of war are accustomed and the conditions of transfer shall in no case be prejudicial to their health.

The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health, likewise with the necessary clothing, shelter and medical attention. The Detaining Power shall take adequate precautions especially in case of transport by sea or by air, to ensure their safety during transfer, and shall draw up a complete list of all transferred prisoners before their departure.

ARTICLE 47

Sick or wounded prisoners of war shall not be transferred as long as their recovery may be endangered by the journey, unless their safety imperatively demands it.

If the combat zone draws closer to a camp, the prisoners of war in the said camp shall not be transferred unless their transfer can be carried out in adequate conditions of safety, or unless they are exposed to greater risks by remaining on the spot than by being transferred.

ARTICLE 48

In the event of transfer, prisoners of war shall be officially advised of their departure and of their new postal address. Such notifications shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of transfer so require, to what each prisoner can reasonably carry, which shall in no case be more than twenty-five kilograms per head.

Main and parcels addressed to their former camp shall be forwarded to them without delay. The camp commander shall take, in agreement with the prisoners' representative, any measures needed to ensure the transport of the prisoners' community property and of the luggage they are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph of this Article.

The costs of transfers shall be borne by the Detaining Power.

SECTION III—LABOUR OF PRISONERS OF WAR

ARTICLE 49

The Detaining Power may utilize the labour of prisoners of war who are physically fit, taking into account their age, sex, rank and physical aptitude, and with a view particularly to maintaining them in a good state of physical and mental health.

Non-commissioned officers who are prisoners of war shall only be required to do supervisory work. Those not so required may ask for other suitable work which shall, so far as possible, be found for them.

If officers or persons of equivalent status ask for suitable work, it shall be found for them, so far as possible, but they may in no circumstances be compelled to work.

ARTICLE 50

Besides work connected with camp administration, installation or maintenance, prisoners of war may be compelled to do only such work as is included in the following classes:

- (a) agriculture;
- (b) industries connected with the production or the extraction of raw materials, and manufacturing industries, with the exception of metallurgical, machinery and chemical industries; public works and building operations which have no military character or purpose;
- (c) transport and handling of stores which are not military in character or purpose;
- (d) commercial business, and arts and crafts;
- (e) domestic service;
- (f) public utility services having no military character or purpose.

Should the above provisions be infringed, prisoners of war shall be allowed to exercise their right of complaint, in conformity with Article 78.

ARTICLE 51

Prisoners of war must be granted suitable working conditions, especially as regards accommodation, food, clothing and equipment; such conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work; account shall also be taken of climate conditions.

The Detaining Power, in utilizing the labour of prisoners of war, shall ensure that in areas in which such prisoners are employed, the national legislation concerning the protection of labour, and, more particularly, the regulations for the safety of workers, are duly applied.

Prisoners of war shall receive training and be provided with the means of protection suitable to the work they will have to do and similar to those accorded to the nationals of the Detaining Power. Subject to the provisions of Article 52, prisoners may be submitted to the normal risks run by these civilian workers.

Conditions of labour shall in no case be rendered more arduous by disciplinary measures.

ARTICLE 52

Unless he be a volunteer, no prisoner of war may be employed on labour which is of an unhealthy or dangerous nature.

No prisoner of war shall be assigned to labour which would be looked upon as humiliating for a member of the Detaining Power's own forces.

The removal of mines or similar devices shall be considered as dangerous labour.

ARTICLE 53

The duration of the daily labour of prisoners of war, including the time of the journey to and fro, shall not be excessive, and must in no case exceed that permitted for civilian workers in the district, who are nationals of the Detaining Power and employed on the same work.

Prisoners of war must be allowed, in the middle of the day's work, a rest of not less than one hour. This rest will be the same as that to which workers of the Detaining Power are entitled, if the latter is of longer duration. They shall be allowed in addition a rest of twenty-four consecutive hours every week, preferably on Sunday or the day of rest in their country of origin. Furthermore, every prisoner who has worked for one year shall be granted a rest of eight consecutive days, during which his working pay shall be paid him.

If methods of labour such as piece work are employed, the length of the working period shall not be rendered excessive thereby.

ARTICLE 54

The working pay due to prisoners of war shall be fixed in accordance with the provisions of Article 62 of the present Convention.

Prisoners of war who sustain accidents in connection with work, or who contract a disease in the course, or in consequence of their work, shall receive all the care their condition may require. The Detaining Power shall furthermore deliver to such prisoners of war a medical certificate enabling them to submit their claims to the Power on which they depend, and shall send a duplicate to the Central Prisoners of War Agency provided for in Article 123.



ARTICLE 55

The fitness of prisoners of war for work shall be periodically verified by medical examinations at least once a month. The examinations shall have particular regard to the nature of the work which prisoners of war are required to do.

If any prisoner of war considers himself incapable of working, he shall be permitted to appear before the medical authorities of his camp. Physicians or surgeons may recommend that the prisoners who are, in their opinion, unfit for work, be exempted therefrom.

ARTICLE 56

The organization and administration of labour detachments shall be similar to those of prisoner of war camps.

Every labour detachment shall remain under the control of and administratively part of a prisoner of war camp. The military authorities and the commander of the said camp shall be responsible, under the direction of their government, for the observance of the provisions of the present Convention in labour detachments.

The camp commander shall keep an up-to-date record of the labour detachments dependent on his camp, and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross, or of other agencies giving relief to prisoners of war, who may visit the camp.

ARTICLE 57

The treatment of prisoners of war who work for private persons, even if the latter are responsible for guarding and protecting them, shall not be inferior to that which is provided for by the present Convention. The Detaining Power, the military authorities and the commander of the camp to which such prisoners belong shall be entirely responsible for the maintenance, care, treatment, and payment of the working pay of such prisoners of war.

Such prisoners of war shall have the right to remain in communication with the prisoners' representatives in the camps on which they depend.

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CHAPTER III

PENAL AND DISCIPLINARY SANCTIONS

\* \* \* \* \*

ARTICLE 84

A prisoner of war shall be tried only by a military court, unless the existing laws of the Detaining Power expressly permit the civil courts to try a member of the armed forces of the Detaining Power in respect of the particular offence alleged to have been committed by the prisoner of war.

In no circumstances whatever shall a prisoner of war be tried by a court of any kind which does not offer the essential guarantees of independence and impartiality as generally recognized, and, in particular, the procedure of which does not afford the accused the rights and means of defence provided for in Article 105.

ARTICLE 85

Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention.

ARTICLE 86

No prisoner of war may be punished more than once for the same act or on the same charge.

ARTICLE 87

Prisoners of war may not be sentenced by the military authorities and courts of the Detaining Power to any penalties except those provided for in respect of members of the armed forces of the said Power who have committed the same acts.

When fixing the penalty, the courts or authorities of the Detaining Power shall take into consideration, to the widest extent possible, the fact that the accused, not being a national of the Detaining Power, is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will. The said courts or authorities shall be at liberty to reduce the penalty provided for the violation of which the prisoner of war is accused, and shall therefore not be bound to apply the minimum penalty prescribed.

Collective punishment for individual acts, corporal punishment, imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden.

No prisoner of war may be deprived of his rank by the Detaining Power, or prevented from wearing his badges.

ARTICLE 88

Officers, non-commissioned officers and men who are prisoners of war undergoing a disciplinary or judicial punishment, shall not be subjected to more severe treatment than that applied in respect of the same punishment to members of the armed forces of the Detaining Power of equivalent rank.

A woman prisoner of war shall not be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a woman member of the armed forces of the Detaining Power dealt with for a similar offence.

In no case may a woman prisoner of war be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a male member of the armed forces of the Detaining Power dealt with for a similar offense.

Prisoners of war who have served disciplinary or judicial sentences may not be treated differently from other prisoners of war.

*II. Disciplinary Sanctions*

ARTICLE 89

The disciplinary punishments applicable to prisoners of war are the following:

- (1) A fine which shall not exceed 50 per cent of the advances of pay and working pay which the prisoner of war would otherwise

receive under the provisions of Articles 60 and 62 during a period of not more than thirty days.

(2) Discontinuance of privileges granted over and above the treatment provided for by the present Convention.

(3) Fatigue duties not exceeding two hours daily.

(4) Confinement.

The punishment referred to under (3) shall not be applied to officers. In no case shall disciplinary punishments be inhuman, brutal or dangerous to the health of prisoners of war.

#### ARTICLE 90

The duration of any single punishment shall in no case exceed thirty days. Any period of confinement awaiting the hearing of a disciplinary offence or the award of disciplinary punishment shall be deducted from an award pronounced against a prisoner of war.

The maximum of thirty days provided above may not be exceeded, even if the prisoner of war is answerable for several acts at the same time when he is awarded punishment, whether such acts are related or not.

The period between the pronouncing of an award of disciplinary punishment and its execution shall not exceed one month.

When a prisoner of war is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

\* \* \* \* \*

#### ARTICLE 97

Prisoners of war shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

All premises in which disciplinary punishments are undergone shall conform to the sanitary requirements set forth in Article 25. A prisoner of war undergoing punishment shall be enabled to keep himself in a state of cleanliness, in conformity with Article 29.

Officers and persons of equivalent status shall not be lodged in the same quarters as non-commissioned officers or men.

Women prisoners of war undergoing disciplinary punishment shall be confined in separate quarters from male prisoners of war and shall be under the immediate supervision of women.

#### ARTICLE 98

A prisoner of war undergoing confinement as a disciplinary punishment, shall continue to enjoy the benefits of the provisions of this Convention except in so far as these are necessarily rendered inapplicable by the mere fact that he is confined. In no case may he be deprived of the benefits of the provisions of Articles 78 and 126.

A prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to his rank.

Prisoners of war awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, on their request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the camp infirmary or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money, however, may be withheld from them until the completion of the punishment; they shall meanwhile be entrusted to the prisoners' representatives, who will hand over to the infirmary the perishable goods contained in such parcels.

## APPENDIX B

### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

SECTIONS 5 AND 6 OF THE WAR CLAIMS ACT OF 1948 (50 APP. U.S.C. 2004 AND 2005)

#### INTERNEES

SEC. 5. (a) As used in subsections (b) and (f) of this section, the term "civilian American citizen" means any person who, being then a citizen of the United States, was captured by the Imperial Japanese Government on or after December 7, 1941, at Midway, Guam, Wake Island, the Philippine Islands, or any Territory or possession of the United States attacked or invaded by such government, or while in transit to or from any such place, or who went into hiding at any such place in order to avoid capture or internment by such government; except (1) a person who at any time voluntarily gave aid to, collaborated with, or in any manner served such government, or (2) a person who at the time of his capture or entrance into hiding was a regularly appointed, enrolled, enlisted, or inducted member of any military or naval force.

(b) The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to December 6, 1941, during which he was held by the Imperial Japanese Government as a prisoner, internee, hostage, or in any other capacity, or remained in hiding to avoid being captured or interned by such Imperial Japanese Government.

(c) The detention benefit allowed to any person under the provisions of subsection (b) shall be at the rate of \$60 for each calendar month during which such person was at least eighteen years of age and at the rate of \$25 per month for each calendar month during which such person was less than eighteen years of age.

(d) The detention benefits allowed under subsection (b) shall be allowed to the person entitled thereto, or, in the event of his death, only to the following persons:

(1) Widow or husband if there is no child or children of the deceased;

(2) Widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children in equal shares;

(3) Child or children of the deceased (in equal shares) if there is no widow or husband; and

(4) Parents (in equal shares) if there is no husband, or child.

(e) Any claim allowed by the Commission under this section (except under ~~subsection (g)~~ *subsections (g) and (i)*) shall be certified to the Secretary of the Treasury for payment out of the war claims funds established by section 13 of this Act, and shall be payable by the Secretary of the Treasury to the person entitled thereto; except that where the person entitled to payment is under any legal disability, any part of the amount payable may, in the discretion of the Commission, be paid for the use of the claimant, to the natural or legal guardian, committee, conservator, or curator of the claimant, or, if there is no such guardian, committee, conservator, or curator, then the Commission may, in its discretion, make payment to any other person, including the spouse of such claimant, whom the Commission may determine is vested with the care of the claimant or his estate for the use and benefit of such claimant or estate; and if such person is a minor, any part of the amount payable may, in the discretion of the Commission, be paid to such minor.

(f) (1) Except as otherwise provided in this subsection, the provisions of titles I and II of the Act entitled "An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes", approved December 2, 1942, as amended, are extended and shall apply with respect to the injury, disability, or death resulting from injury of a civilian American citizen occurring while he was held by or in hiding from the Imperial Japanese Government, to the same extent as if such civilian American citizen were an employee within the purview of such Act of December 2, 1942, as amended.

(2) For the purpose of determining the benefits extended and made applicable by paragraph (1)—

(A) the average weekly wage of any such civilian American citizen, whether employed, self-employed, or not employed, shall be deemed to have been \$37.50;

(B) the provisions of such Act shall be applicable whether or not any such civilian American citizen was employed;

(C) notice of injury or death shall not be required; and limitation provisions with respect to the filing of claims for injury, disability, or death shall not begin to run until the date of enactment of this section; and

(D) the monthly compensation in cases involving partial disability shall be determined by the percentage the degree of partial disability bears to total disability and shall not be determined with respect to the extent of loss of wage earning capacity.

(3) The following provisions of such Act of December 2, 1942, as amended, shall not apply in the case of such civilian American citizens: The last sentence of section 101(a), section 101(b), section 101(d), section 104, and section 105.

(4) Rights or benefits which, under this subsection, are to be determined with reference to other provisions of law shall be determined with reference to such provisions of law as in force on January 3, 1948.

(5) The money benefit for disability or death shall be paid only to the person entitled thereto, or to his legal or natural guardian if he has

one, and shall not upon death of the person so entitled survive for the benefit of his estate or any other person.

(6) The benefit of a minor or of an incompetent person who has no natural or legal guardian may, in the discretion of the Federal Security Administrator, be paid, in whole or in such part as he may determine for and on behalf of such minor or incompetent directly to the person or institution caring for, supporting, or having custody of such minor or incompetent.

(7) No person, except a widow or a child, shall be entitled to benefits for disability with respect to himself, and to death benefits on account of the death of another.

(8) If a civilian American citizen or his dependent receives or has received from the United States any payments on account of the same injury or death, or from his employer, in the form of wages, or payments in lieu of wages, or in any form of support or compensation (including workmen's compensation) in respect to the same objects, the benefits under this section shall be diminished by the amount of such payments in the following manner: (A) Benefits on account of injury or disability shall be reduced by the amount of payments to the injured person on account of the same injury or disability; and (B) benefits on account of death shall be reduced by the amount of payments to the dependents of the deceased civilian American citizen on account of the same death.

(9) This subsection shall take effect as of December 7, 1941, and the right of individuals to benefits shall be held to have begun to accrue as though this subsection had been in effect as of such date.

(10) No benefits provided by this subsection for injury, disability, or death shall accrue to any person who, without regard to this subsection, is entitled to or has received benefits for the same injury, disability, or death under such Act of December 2, 1942, as amended.

(11) No benefits provided by this subsection shall accrue to any person to whom benefits have been paid, or are payable, under the Federal Employees' Compensation Act, or any extension thereof, by reason of disability or death of an employee of the United States suffered after capture, detention, or other restraint by an enemy of the United States, when such disability or death is deemed, in the administration of the Federal Employees' Compensation Act, to have resulted from injury occurring while in the performance of duty, under subsection (b) of section 5 of the Act entitled "An Act to amend the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes', as amended", approved July 28, 1945, as amended.

(g) (1) As used in this subsection, the term "civilian American citizens" means any person who, being then a citizen of the United States, was captured in Korea on or after June 25, 1950, by any hostile force with which the Armed Forces of the United States were actually engaged in armed conflict subsequent to such date and prior to the date of enactment of this subsection, or who went into hiding in Korea in order to avoid capture or internment by any such hostile force; except (A) a person who at any time voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force, or (B) a regularly appointed, enrolled,

enlisted, or inducted member of the Armed Forces of the United States.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to June 25, 1950, during which he was held by any such hostile force as a prisoner, internee, hostage, or in any other capacity, or remaining in hiding to avoid being captured or interned by any such hostile force.

(3) The detention benefit allowed to any person under the provisions of paragraph (2) of this subsection shall be at the rate of \$60 for each calendar month during which such person was at least eighteen years of age and at the rate of \$25 per month for each calendar month during which such person was less than eighteen years of age.

(4) The detention benefits allowed under paragraph (2) of this subsection shall be allowed to the person entitled thereto, or, in the event of his death, only to the following persons:

(A) widow or husband if there is no child or children of the deceased;

(B) widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children in equal shares;

(C) child or children of the deceased (in equal shares) if there is no widow or dependent husband.

(5) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection, and shall be paid by the Secretary of the Treasury to the person entitled thereto, except that where any person entitled to payment under this subsection is under any legal disability, payment may be made in accordance with the provisions of subsection (e) of this section.

(6) Each claim filed under this subsection must be filed not later than one year from whichever of the following dates last occurs:

(A) The date of enactment of this subsection;

(B) The date the civilian American citizen by whom the claim is filed returned to the jurisdiction of the United States; or

(C) The date upon which the Commission, at the request of a potentially eligible survivor, makes a determination that the civilian American citizen has actually died or may be presumed to be dead, in the case of any civilian American citizen who has not returned to the jurisdiction of the United States.

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(7) (A) There are hereby authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(B) The Commission shall determine, from time to time, the share of its administrative expenses attributable to the performance of its functions under this subsection and make the appropriate adjustments in its accounts, and determinations and adjustments made pursuant to this subparagraph shall be final and conclusive.



(h) In the case of any Guamanian killed or captured by the Imperial Japanese Government on or after December 7, 1941, at Wake Island, benefits shall be granted under subsections (a) through (f) of this section in the same manner and to the same extent as apply in the case of civilian American citizens so killed or captured. Claims for benefits under subsections (a) through (e) of this section must be filed within six months after the date of enactment of this subsection, and the time limitation applicable to any individual by subsection (f) shall not begin to run until the date of enactment of this subsection, with respect to any individual who is entitled to such benefits solely by reason of this subsection. The preceding sentence shall not be construed to affect the right of any individual to receive such benefits with respect to any period prior to the date of enactment of this subsection.

(i) (1) *As used in this subsection—*

(A) *the term "Vietnam conflict" relates to the period beginning on February 28, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress; and*

(B) *the term "civilian American citizen" means any person who, being then a citizen of the United States, was captured in Southeast Asia during the Vietnam conflict by any force hostile to the United States, or who went into hiding in Southeast Asia in order to avoid capture or internment by any such hostile force, except (i) a person who voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force, or (ii) a regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States.*

(2) *The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to February 27, 1961, during which he was held by any such hostile force as a prisoner, internee, hostage, or in any other capacity, or remained in hiding to avoid capture or internment by any such hostile force.*

(3) *The detention benefits allowed under paragraph (2) of this subsection shall be at the rate of \$60 for each calendar month.*

(4) *The detention benefits allowed under paragraph (2) of this subsection shall be allowed to the civilian American citizen entitled thereto, or, in the event of his death, only to the following persons:*

(A) *the widow or husband if there is no child or children of the deceased;*

(B) *the widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children in equal shares;*

(C) *the child or children of the deceased in equal shares if there is no widow or dependent husband.*

(5) *Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection, and shall be paid to the person entitled thereto, except that if a person entitled to payment under this section is under any legal disability, payment shall be made in accordance with the provisions of subsection (e) of this section.*

(6) *Each claim filed under this section must be filed not later than three years from whichever of the following dates last occurs:*

*(A) the date of enactment of this subsection;*

*(B) the date the civilian American citizen by whom the claim is filed returned to the jurisdiction of the United States; or*

*(C) the date upon which the Commission, at the request of a potentially eligible survivor, makes a determination that the civilian American citizen has actually died or may be presumed to be dead, in the case of any civilian American citizen who has not returned to the jurisdiction of the United States.*

*The Commission shall complete its determinations for each claim filed under this subsection at the earliest practicable date, but not later than one year after the date on which such claim was filed.*

*(7) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.*

#### PRISONERS OF WAR

SEC. 6. (a) As used in subsection (b) of this section, the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military or naval forces of the United States who was held as a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.

(b) The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by any prisoner of war for compensation for the violation by the enemy government by which he was held as a prisoner of war, or its agents, of its obligation to furnish him the quantity or quality of food to which he was entitled as a prisoner of war under the terms of the Geneva Convention of July 27, 1929. The compensation allowed to any prisoner of war under the provisions of this subsection shall be at the rate of \$1 for each day he was held as a prisoner of war on which the enemy government or its agents failed to furnish him such quantity or quality of food. Any claim allowed under the provisions of this subsection shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this Act.

(c) Claims pursuant to subsection (b) shall be paid to the person entitled thereto, and shall in case of death of the persons who are entitled to be payable only to or for the benefit of the following persons:

(1) Widow or husband if there is no child or children of the deceased;

(2) Widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

(3) Child or children of the deceased (in equal shares) if there is no widow or husband; and

(4) Parents (in equal shares) if there is no widow, husband, or child.

(d) (1) As used in this subsection the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military or naval forces of the United States who was held a prisoner

of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.

(2) The Commission is authorized to receive, adjudicate according to law, and to provide for the payment of any claim filed by any prisoner of war for compensation—

(A) for the violations by the enemy government by which he was held as a prisoner of war, or its agents, of such government's obligations under title III, section III, of the Geneva Convention of July 27, 1929, relating to labor of prisoners of war; or

(B) for inhumane treatment by the enemy government by which he was held, or its agents. The term "inhumane treatment" as used herein shall include, but not be limited to, violation by such enemy government, or its agents, of one or more of the provisions of articles 2, 3, 7, 10, 12, 13, 21, 22, 54, 56, or 57, of the Geneva Convention of July 27, 1929.

(3) Compensation shall be allowed to any prisoner of war under this subsection at the rate of \$1.50 per day for each day he was held as a prisoner of war on which he alleges and proves in a manner acceptable to the Commission—

(A) the violation by such enemy government or its agents of the provisions of title III, section III, of the Geneva Convention of July 27, 1929; or

(B) any inhumane treatment as defined herein.

Any claim allowed under the provisions of this subsection shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this Act. In no event shall the compensation allowed to any prisoner of war under this subsection exceed the sum of \$1.50 with respect to any one day.

(4) Claims pursuant to subsection (d) (2) shall be paid to the person entitled thereto, or to his legal or natural guardian if he has one, and shall, in case of death of the persons who are entitled be payable only to or for the benefit of the following persons:

(A) widow or husband if there is no child or children of the deceased;

(B) widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

(C) child or children of the deceased (in equal shares) if there is no widow or husband; and

(D) parents (in equal shares) if there is no widow, husband, or child.

(e) (1) As used in this subsection the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States who was held as a prisoner of war for any period of time subsequent to June 25, 1950, by any hostile force with which the Armed Forces of the United States were actually engaged in armed conflict subsequent to such date and prior to the date of enactment of this subsection, [except any such member] or any person (military or civilian) assigned to duty in the U.S.S. Pueblo who was captured by the military forces of North Korea on January 23, 1968, and thereafter held prisoner by the Government of North Korea for any period of time ending on or before December 23, 1968,

*except any person* who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by any prisoner of war for compensation for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of July 27, 1929. The compensation allowed to any prisoner of war under the provisions of this paragraph shall be at the rate of \$1 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

(3) The Commission is authorized to receive and to determine, according to law, the amount and validity and provide for the payment of any claim filed by any prisoner of war for compensation—

(A) for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to meet the conditions and requirements prescribed under title III, section III, of the Geneva Convention of July 27, 1929, relating to labor of prisoners of war; or

(B) for inhumane treatment by the hostile force by which he was held, or its agents. The term "inhumane treatment" as used herein shall include, but not be limited to, failure of such hostile force, or its agents, to meet the conditions and requirements of one or more of the provisions of articles 2, 3, 7, 10, 12, 13, 21, 22, 54, 56, or 57 of the Geneva Convention of July 27, 1929.

Compensation shall be allowed to any prisoner of war under this paragraph at the rate of \$1.50 per day for each day on which he was held as a prisoner of war and with respect to which he alleges and proves in a manner acceptable to the Commission the failure to meet the conditions and requirements described in subparagraph (A) or the inhumane treatment described in subparagraph (B). In no event shall the compensation allowed to any prisoner of war under this paragraph exceed the sum \$1.50 with respect to any one day.

(4) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection and shall be paid by the Secretary of the Treasury to the person entitled thereto, and shall, in case of death or determination of death of the persons who are entitled, be paid only to or for the benefit of the persons specified, and in the order established, by paragraph (4) of subsection (d) of this section.

(5) Each claim filed under this subsection must be filed not later than one year from whichever of the following dates last occurs:

(A) The date of enactment of this subsection;

(B) The date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or

(C) The date upon which the Department of Defense makes a determination that the prisoner of war has actually died or is pre-

sumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States.

*(D) In the case of any person assigned to duty in the U.S.S. Pueblo referred to in paragraph (1) of this subsection, one year after the date of enactment of this subparagraph.*

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(6) Any claim allowed under the provisions of this subsection shall be paid from funds appropriated pursuant to paragraph (7) of this subsection.

(7) (A) There are hereby authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(B) The Commission shall determine, from time to time, the share of its administrative expenses attributable to the performance of its functions under this subsection and make the appropriate adjustments in its accounts, and determinations and adjustments made pursuant to this subparagraph shall be final and conclusive.

*(f) (1) As used in this subsection—*

*(A) the term "Vietnam conflict" relates to the period beginning February 28, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress; and*

*(B) the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States who was held as a prisoner of war for any period of time during the Vietnam conflict by any force hostile to the United States, except any such member who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with, or in any manner served, such hostile force.*

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by any prisoner of war for compensation for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of August 12, 1949. The compensation allowed to any prisoner of war under the provisions of this paragraph shall be at the rate of \$1 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

(3) The Commission is authorized to receive and to determine, according to law, the amount and validity and provide for the payment of any claim filed by any prisoner of war for compensation—

*(A) for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to meet the conditions and requirements prescribed under chapter VIII, section III, of the Geneva Convention of August 12, 1949, relating to labor of prisoners of war; or*

(B) for inhumane treatment by the hostile force by which he was held, or its agents. The term "inhumane treatment" as used in this subparagraph shall include, but not be limited to, failure of such hostile force, or its agents, to meet the conditions and requirements of one or more of the provisions of article 3, 12, 13, 14, 17, 19, 22, 23, 24, 25, 27, 29, 43, 44, 45, 46, 47, 48, 84, 85, 86, 87, 88, 89, 90, 97, or 98 of the Geneva Convention of August 12, 1949. Compensation shall be allowed to any prisoner of war under this paragraph at the rate of \$1.50 per day for each day on which he was held as a prisoner of war and with respect to which he alleges and proves in a manner acceptable to the Commission the failure to meet the conditions and requirements described in subparagraph (A) of this paragraph or the inhumane treatment described in subparagraph (B) of this paragraph. In no event shall the compensation allowed to any prisoner of war under this paragraph exceed the sum of \$1.50 with respect to any one day.

(4) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection and shall be paid by the Secretary of the Treasury to the person entitled thereto, and shall, in the case of death or determination of death of the persons who are entitled, be paid only to or for the benefit of the persons specified, and in the order established, by subsection (d) (4) of this section.

(5) Each claim filed under this subsection must be filed not later than three years from whichever of the following dates last occurs:

- (A) the date of enactment of this subsection;
- (B) the date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or
- (C) the date upon which the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States.

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(6) Any claim allowed under the provisions of this subsection shall be paid from funds appropriated pursuant to paragraph (7) of this subsection.

(7) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

[(f)](g) Where any person entitled to payment under this section is under any legal disability, payment may be made in accordance with the provisions of subsection (e) of section 5.